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EXAMINER
KARDOS, NEIL R

ART UNIT	PAPER NUMBER
3623	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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	Application No.	Applicant(s)
Office Action Summary	10/544,118	GRIFFIN ET AL.
	Examiner	Art Unit	
	Neil R. Kardos	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 August 2005*.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-25* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☒ All   b)☐ Some *   c)☐ None of:
      1.☒ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date *2/13/06, 10/26/07*.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____ .

DETAILED ACTION

This is a **NON-FINAL** Office Action on the merits in response to communications filed

on August 1, 2005. Currently, claims 1-25 are pending.

Claim Objections

Claims 1-16, 24, and 25 are objected to because of the following informalities:

Claim 1: Claim 1, line 13 recites "each being linked to the another." Examiner believes

this limitation should recite "each being linked to the other."

Claims 2-16, 24, and 25: The dependent claims are rejected for failing to remedy the

deficiencies of the claims from which they depend.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

Claims 1-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite

for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention.

Claim 1: Claim elements "data processing means for" and "first electronic storage means

for" are means plus function limitations that invoke 35 U.S.C. 112, sixth paragraph. However,

the written description fails to clearly link or associate the disclosed structure, material, or acts to

the claimed function such that one of ordinary skill in the art would recognize what structure,

material, or acts perform the claimed function.

Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a means (or step) plus

function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it clearly links or

associates the corresponding structure, material, or acts to the claimed function without

introducing any new matter (35 U.S.C. 132(a)); or

(c) State on the record where the corresponding structure, material, or acts are set forth in

the written description of the specification that perform the claimed function. For more

information, see 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181.

Claim 1 also recites "browser means." It is unclear whether this claim element is a means

(or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. If applicant wishes

to have the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant is required

to:

(a) Amend the claim to include the phrase "means for" or "step for" in accordance with

these guidelines: the phrase "means for" or "step for" must be modified by functional language

and the phrase must **not** be modified by sufficient structure, material, or acts for performing the

claimed function; or

(b) Show that the claim limitation is written as a function to be performed and the claim

does **not** recite sufficient structure, material, or acts for performing the claimed function which

would preclude application of 35 U.S.C. 112, sixth paragraph. For more information, see MPEP § 2181.

Furthermore, the "browser means" is modified by some structure, material, or acts recited in the claim (i.e. a browser). It is unclear whether the recited structure (the browser), material, or acts are sufficient for performing the claimed function which would preclude application of 35 U.S.C. 112.

If applicant wishes to have the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant is required to amend the claim so that the phrase "means for" or "step for" is clearly **not** modified by sufficient structure, material, or acts for performing the claimed function.

If applicant does **not** wish to have the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant is required to amend the claim so that it will clearly not be a means (or step) plus function limitation (e.g., deleting the phrase "means for" or "step for").

Claims 4 and 7: Claim 4 recites "second electronic means for." Claim 7 recites "second electronic means for" and "data processing means for." These claims are rejected for the same reasons as claim 1, above.

Claims 17, 20, and 23: Claim 17 recites "browser means," "data processing means," and "first electronic storage means." Claim 20 recites "data processing means for" and "data processing means." Claim 23 recites "data processing means for" and "browser means." These claims are rejected for the same reasons as claim 1, above.

Claims 6, 15, 24, and 25: Claims 6, 15, 24, and 25 recite a "system according to either

one of claims" and then a single claim. It is not clear whether these claims are intended to be in

multiple dependent form and depend from more than one claim, or whether they are intended to

be singularly dependent from the single recited claim. Amendment is required to correct this

deficiency.

Claims 2-16, 18, 19, 21, 22, 24, and 25: The dependent claims are rejected for failing to

remedy the deficiencies of the claims from which they depend. These claims also contain much

of the language of the independent claims, including "browser means," "data processing means,"

and "storage means." The claims containing these limitations are rejected under similar rationale

as the independent claims from which they depend.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nyhan

(US 2003/0009372) in view of Sim (US 7,376,722).

Claim 1: Nyhan discloses a system for measuring and recording user data in a

communications network and associating the user data with demographic data of the user, the

user being able to access a user computer processing means having browser means, the system

comprising:

- data processing means for receiving from the browser means a measurement

  record after the user accesses a part of the network having a portion of

  measurement code embedded therein (see paragraphs 17-20, disclosing cookie

  data associated with a website and banner ad; paragraph 25, disclosing code for

  deciding whether or not to solicit a user to take a survey; paragraphs 32-34,

  disclosing similar features);

- the data processing means determining from the received measurement record

  whether a survey identified by a survey identifier has been presented to the user

  (see paragraphs 14, 18-20, 25, and 32-34; the reference discloses using a cookie

  that keeps track of whether a user has taken a survey);

- whereupon if the survey identifier is not detected, the data processing means

  forwards survey initiation code together with compatible measurement code to the

  user in order to complete a survey (see paragraphs 18-20, 25, and 32-34; the

  reference discloses presenting a survey to a user if the cookie data indicates that

  the user has not previously been solicited to take a survey);

Nyhan does not explicitly disclose the remainder of the claim limitations. Sim discloses:

- the survey including the demographic data of the user (see column 6: lines 38-53,

  disclosing surveying users to determine demographic data);

- the system further comprising:

- first electronic storage means for receiving survey data of the user and the

  measurement record of the user, each being linked to the other and identified

  through a user identification code (see column 6: line 54 through column 7: line 2,

  disclosing transmitting collected data, including demographic data and website

  interaction data, to a collection server and linking the interactions to the users via

  an identifier; see also column 10: lines 30-53; all of column 6);

- whereupon an interested party has access to information based on the

  measurement record and survey data of the user for the purpose of ascertaining

  information about the user in a market segment (see column 6: lines 1-32,

  disclosing that the stored data may be accessed by interested parties; column 7:

  lines 3-18, disclosing the same; column 9: lines 19-32, disclosing the same).

Nyhan and Sim are both directed to online surveys. Nyhan discloses determining

whether a particular user has previously been surveyed after that user performs some action on a

network, and if not, presenting a survey to that user. Sim discloses surveying users for

demographic data, linking that demographic data to the user-performed action, and making the

linked data available to interested parties. It would have been obvious to one of ordinary skill in

the art at the time the invention was made to combine these analogous references to arrive at the

claimed invention by combining Nyahn's survey decision process with the survey data and

linking disclosed by Sim. One of ordinary skill in the art would have been motivated to do so for

the benefit of a more accurate picture of internet usages (see Sim: column 1: lines 25-34) as well

as for the benefit of fast and efficient information gathering without being too intrusive to

internet users (see Nyhan: paragraphs 2-5). Furthermore, This combination of known elements

retains the functionality of the separate elements and produces a result that would be predictable to one of ordinary skill in the art.

Claim 2: Nyhan discloses wherein prior to the data processing means receiving the measurement record from the browser means, the browser means executes the portion of measurement code embedded in the accessed part of the network and sends a request to the data processing means (see at least paragraphs 17-20).

Claim 3: Nyhan discloses wherein the data processing means delivers the compatible measurement code to the browser means after receipt of the request (see at least paragraphs 17-20).

Claim 4: Nyhan does not explicitly disclose second electronic storage means for storing the survey data, including demographic data, of the user. Sim discloses this limitation (see column 6: line 38 through column 7: line 2, disclosing collecting and storing demographic data). Nyhan and Sim are combinable for the reasons discussed above with respect to claim 1.

Claim 5: Nyhan does not explicitly disclose wherein the second electronic storage means comprises survey collection means. Sim discloses this limitation (see column 6: line 38 through column 7: line 2, disclosing collecting and storing demographic data). Nyhan and Sim are combinable for the reasons discussed above with respect to claim 1.

Claim 6: Nyhan does not explicitly disclose wherein the second electronic storage means is linked to the data processing means, in the form of a data collection node, for receiving the survey data of the user. Sim discloses this limitation (see column 6: line 38 through column 7: line 2, disclosing collecting and storing demographic data). Nyhan and Sim are combinable for the reasons discussed above with respect to claim 1.

Claim 7: Nyhan does not explicitly disclose wherein the first electronic storage means is linked to the second electronic storage means for receiving the survey data of the user and is also linked to the data processing means for receiving the measurement record. Sim discloses this limitation (see column 6: line 38 through column 7: line 2, disclosing collecting and storing demographic data and linking it to web data via an identifier). Nyhan and Sim are combinable for the reasons discussed above with respect to claim 1.

Claim 8: Nyhan and Sim do not explicitly disclose wherein the first electronic storage means comprises a market clickstream database. However, Nyhan and Sim at least suggests this limitation (see Nyhan: paragraph 17, disclosing clicking a banner advertisement; Sim: column 6: lines 54-60, disclosing page impressions, web site access, and time spent on a site or page). Furthermore, Examiner takes Official Notice that it was well-known in the art at the time the invention was made to track clickstream data. It would have been obvious to one of ordinary skill in the art at the time the invention was made to collect clickstream data and combine it with demographic data, as suggested by Sim. One of ordinary skill in the art would have been

motivated to do so for the benefit of gathering a more accurate picture of the market (see Sim:

column 1: lines 19-34).

Claim 9: Nyhan does not explicitly disclose wherein the first electronic storage means

processes and assembles said information for the interested party based on the survey data and

measurement record of the user, and forwards the information to an online reporting database.

Sim discloses this limitation (see column 6: lines 23-26; column 7: lines 3-18; column 9: lines

19-32). Nyhan and Sim are combinable for the reasons discussed above with respect to claim 1.

Claim 10: Nyhan does not explicitly disclose wherein the online reporting database is

then accessed by the interested party to access the information. Sim discloses this limitation (see

column 6: lines 23-26; column 7: lines 3-18; column 9: lines 19-32). Nyhan and Sim are

combinable for the reasons discussed above with respect to claim 1.

Claim 11: Nyhan and Sim do not explicitly disclose wherein the information is retrieved

by the interested party by compiling a set of queries. However, Sim at least suggests this

limitation (see column 6: lines 23-26; column 7: lines 3-18; column 9: lines 19-32). Nyhan and

Sim are combinable for the reasons discussed above with respect to claim 1. Furthermore,

Examiner takes Official Notice that it was well-known in the art at the time the invention was

made to use queries in a reporting process. It would have been obvious to one of ordinary skill

in the art at the time the invention was made to allow the interested parties of Sim to use queries

in the reporting process. One of ordinary skill in the art would have been motivated to do so for

the benefit of efficiencies gained by only viewing relevant data.

Claim 12: Nyhan does not explicitly disclose wherein the measurement record includes

the user identification code. Sim discloses this limitation (see column 6: line 54 through column

7: line 2, disclosing a user identification code).

Claim 13: Nyhan does not explicitly disclose wherein the measurement record includes a

cookie including the user identification code. However, Nyhan does disclose cookies (see

paragraphs 17-20). Sim discloses wherein the measurement record includes a cookie including

the user identification code (see column 6: line 54 through column 7: line 2, disclosing a user

identification code and cookie). Nyhan and Sim are combinable for the reasons discussed above

with respect to claim 1.

Claim 14: Nyhan discloses wherein the cookie includes the survey identifier, and upon

detection of the survey identifier, the survey identified by the survey identifier is not delivered to

the user browser means (see paragraphs 17-20, 25, and 32-34; the reference discloses presenting

a survey to a user if the cookie data indicates that the user has not previously been solicited to

take a survey).

Claim 15: Nyhan discloses wherein, where survey initiation code is forwarded to the

user browser means, the survey initiation code is appended to the measurement code forwarded

by the data processing means and the cookie applied to the browser means (see at least paragraph

34, disclosing sending a cookie to the browser to indicate that the user has taken an online

survey).

Claim 16: Nyhan discloses wherein once a survey is completed by the user, the survey is

then appended to or tagged with the user cookie and returned to the data processing means for

storage in the second electronic storage means (see at least paragraph 34, disclosing sending a

cookie to the browser to indicate that the user has taken an online survey).

Claims 17-23: Claims 17-23 are substantially similar to claims 1, 12 and 14-16, and are

rejected under similar rationale.

Claims 24 and 25: Claims 24 and 25 are substantially similar to claims 6 and 15, and are

rejected under similar rationale.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

- Nyhan (US 7,010,497), directed to evaluating and monitoring effectiveness of

  online advertising

- Abraham (US 7,260,837), directed to user identification, user demographic

  reporting, and collecting user internet usage data

- Nickerson (US 7,478,121), directed to receiving and reporting page-specific user feedback concerning one or more particular web pages of a website

- Nickerson (US 7,370,285), directed to receiving and reporting page-specific user feedback concerning one or more particular web pages of a website

- De Ment (US 6,728,755), directed to dynamic user profiling for usability

- Levine (US 6,385,590), directed to determining the effectiveness of a stimulus

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil R. Kardos whose telephone number is (571) 270-3443. The examiner can normally be reached on Monday through Friday from 9 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Neil R. Kardos
Examiner
Art Unit 3623

/Neil R. Kardos/
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